

N.D.A.G. Letter to Plunkett (Nov. 17, 1992)

November 17, 1992

Ms. Phyl Plunkett
Private Investigator and Security Board
P.O. Box 7026
Bismarck, ND 58507

Dear Ms. Plunkett:

Thank you for your October 15, 1992, letter requesting my opinion on whether persons engaged in the business of locating owners or heirs of lost, abandoned, or unclaimed property are performing a private investigative service for which they are required to have a license under N.D.C.C. ch. 43-30.

As defined by N.D.C.C. ch. 43-30, "private investigative service" means "obtaining or furnishing information with reference to any act or individual." N.D.C.C. § 43-30-01(2). The above definition of "private investigative service" is very broad, and by its plain language includes locating owners or heirs of lost, abandoned, or unclaimed property. Locating owners or heirs of lost, abandoned, or unclaimed property is obtaining or furnishing information with reference to an individual. Consequently, unless otherwise exempted, such activity requires a license number N.D.C.C. ch. 43-30. N.D.C.C. § 43-30-05.

N.D.C.C. § 43-30-02 lists several classes of persons who are exempt from the licensure requirements under N.D.C.C. ch. 43-30. For example, a lawyer can locate property for a client as part of the lawyer's regular practice of law under N.D.C.C. § 43-30-02(3) without obtaining a license, but a lawyer would need a license to locate owners of lost or unclaimed property as a business outside of the regular practice of law.

Likewise, under N.D.C.C. § 43-30-02(5), a person can locate unclaimed property for a person for whom he or she is "solely employed." Words used in any statute are to be understood in their ordinary sense. N.D.C.C. § 1-02-02. As commonly understood, "solely" employed means that the individual is singly or exclusively employed by that person. The American Heritage Dictionary 1163 (2d ed. 1992).

Whether any specific individual falls within the exception of N.D.C.C. § 43-30-02 is a factual question that cannot be addressed in this letter.

Therefore, it is my opinion that locating owners or heirs of lost, abandoned, or unclaimed property constitutes private investigative service as defined in N.D.C.C. § 43-30-01(2). Whether a person engaged in such activity is exempt from licensure requirements by N.D.C.C. § 43-30-02 is a factual question which must be determined on a case by case basis.

Sincerely,

Nicholas J. Spaeth
Attorney General

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